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CLERK U S DISTRICT COURT		
DISTRICT OF ARIZONA		
BY		DEPUTY

7 IN THE UNITED STATES DISTRICT COURT
 8 FOR THE DISTRICT OF ARIZONA

9 United States of America,
 10 Plaintiff,
 11 vs.
 12 Alvaro Corona-Acosta,
 13 Defendant.

CR - 18-1751 - TUC-RCC (DTF)
 Mag No: 18-07401M
 PLEA AGREEMENT
 (Fast Track 5K3.1)

15 The United States of America and the defendant hereby agree to resolve this matter
 16 on the following terms and conditions:

17 **PLEA**

18 The defendant will plead guilty to an Indictment charging a violation of Title 8,
 19 United States Code (U.S.C.), Section 1326(a), Reentry of Removed Alien.

20 **I. MAXIMUM PENALTIES**

21 A. The maximum possible penalty for a violation of 8 U.S.C. § 1326(a), a class
 22 E felony, two (2) years of imprisonment, a fine of up to \$250,000, and a term of supervised
 23 release of up to one (1) year.

24 B. According to the United States Sentencing Guidelines (U.S.S.G.) issued
 25 pursuant to the Sentencing Reform Act of 1984, the Court shall:

26 1. Order the defendant to pay a fine pursuant to 18 U.S.C. §§ 3572 and
 27 3553, unless the Court finds that a fine is not appropriate; and

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1 2. Order the defendant to serve a term of supervised release when
2 required by statute and may impose a term of supervised release in all other cases, taking
3 into consideration U.S.S.G. § 5D1.1.

4 C. Pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the
5 defendant to pay a \$100 special assessment.

6 **II. AGREEMENTS REGARDING SENTENCING**

7 A. Guidelines Calculations. The parties understand that the Guidelines are only
8 advisory and just one of the factors the Court will consider under 18 U.S.C. §3553(a) in
9 imposing a sentence.

10 B. Sentencing Range. Pursuant to Fed. R. Crim. P., Rule 11(c)(1)(C), the
11 government and the defendant stipulate and agree that the following are the maximum
12 applicable guideline ranges for this offense. The defendant understands that he will be
13 sentenced in accordance with the applicable ranges below as determined by the Court.

14 0 to 6 months of imprisonment if defendant's Criminal History Category is I;
15 1 to 7 months of imprisonment if defendant's Criminal History Category is II;
16 2 to 8 months of imprisonment if defendant's Criminal History Category is III;
17 6 to 12 months of imprisonment if defendant's Criminal History Category is IV;
18 9 to 15 months of imprisonment if defendant's Criminal History Category is V;
19 12 to 18 months of imprisonment if defendant's Criminal History Category is VI.

20 These ranges include a two-level reduction pursuant to U.S.S.G § 5K3.1 ("fast-
21 track").

22 Both parties agree to waive the draft Presentence Investigation Report.

23 If the government or probation department discovers a conviction other than those
24 disclosed to the defense, this may make higher sentencing ranges appropriate, and the
25 government shall have the right to withdraw from this agreement.

26 C. Departures or Reductions. If the defendant moves for any adjustments in
27 Chapters Two, Three, or Four of the Sentencing Guidelines or any "departures" from the
28 Sentencing Guidelines, the government may withdraw from this agreement. If the
defendant argues for a variance under 18 U.S.C. §3553(a) in support of a sentence request

1 below the stipulated ranges in this agreement, the government may oppose the requested
2 variance. The government, however, will not withdraw from the agreement if the
3 defendant argues for, and the Court grants, a variance below the stipulated range in this
4 agreement.

5 D. Supervised Release / Probation. This plea agreement is conditioned on the
6 defendant not being on federal supervised release or federal probation at the time of the
7 offense. If the defendant is found to have been on supervised release / probation, the
8 defendant's supervised release / probation violation matter will be addressed in separate
9 proceedings/pleadings.

10 E. Criminal History Points/Prior Convictions. If the defendant has 18 or more
11 criminal history points, or if the government or federal probation discovers a conviction
12 other than those disclosed to the defense prior to sentencing, the government shall have the
13 right to withdraw from this agreement.

14 F. Plea Addendum. This written plea agreement, and any written addenda filed
15 as attachments to this plea agreement, contain all the terms and conditions of the plea. Any
16 additional agreements, if any such agreements exist, shall be recorded in a separate
17 document and may be filed with the Court under seal. Accordingly, additional agreements,
18 if any, may not be in the public record.

19 **III. COURT APPROVAL REQUIRED**

20 If the Court, after reviewing this plea agreement, concludes that any provision is
21 inappropriate, it may reject the plea agreement under Rule 11(c)(5), Fed. R. Crim. P.,
22 giving the defendant, in accordance with Rule 11(d)(2)(A), Fed. R. Crim. P., an opportunity
23 to withdraw the defendant's guilty plea.

24 **IV. WAIVER OF DEFENSES AND APPEAL RIGHTS**

25 Provided the defendant receives a sentence not to exceed **18** months' imprisonment,
26 the defendant waives any and all motions, defenses, probable cause determinations, and
27 objections that the defendant could assert to the information or indictment, or to the petition
28 to revoke, or to the Court's entry of judgment against the defendant and imposition of

1 sentence upon the defendant. The defendant further waives: (1) any right to appeal the
2 Court's entry of judgment against defendant; (2) any right to appeal the imposition of
3 sentence upon defendant under 18 U.S.C. § 3742 (sentence appeals); (3) any right to
4 collaterally attack defendant's conviction and sentence under 28 U.S.C. § 2255, or any other
5 collateral attack; and (4) any right to file a motion for modification of sentence, including
6 under 18 U.S.C. § 3582(c). The defendant acknowledges that this waiver shall result in the
7 dismissal of any appeal or collateral attack the defendant might file challenging his/her
8 conviction or sentence in this case. If the defendant files a notice of appeal or a habeas
9 petition, notwithstanding this agreement, defendant agrees that this case shall, upon motion
10 of the government, be remanded to the district court to determine whether defendant is in
11 breach of this agreement and, if so, to permit the government to withdraw from the plea
12 agreement. This waiver shall not be construed to bar a claim of ineffective assistance of
13 counsel or an otherwise-preserved claim of "prosecutorial misconduct" (as that term is
14 defined by Section II.B of Ariz. Ethics Op. 15-01 (2015)).

15 **V. IMMIGRATION CONSEQUENCES OF PLEA**

16 The defendant recognizes that pleading guilty may have consequences with respect
17 to his/her immigration status if the defendant is a recently naturalized United States citizen
18 or is not a citizen of the United States. Under federal law, a broad range of crimes are
19 removable offenses, including the offense(s) to which defendant is pleading guilty.
20 Although there may be exceptions, the defendant understands that the defendant's guilty
21 plea and conviction for this offense make it practically inevitable and a virtual certainty
22 that the defendant will be removed or deported from the United States. The defendant
23 agrees that he/she has discussed this eventuality with his/her attorney. The defendant
24 nevertheless affirms that he/she wants to plead guilty regardless of any immigration
25 consequences that this plea entails, even if the consequence is the defendant's automatic
26 removal from the United States.

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1 **VI. PERJURY AND OTHER OFFENSES**

2 Nothing in this agreement shall be construed to protect the defendant in any way
 3 from prosecution for perjury, false declaration or false statement, obstruction of justice, or
 4 any other offense committed by the defendant after the date of this agreement. Any
 5 information, statements, documents, or evidence the defendant provides to the United
 6 States pursuant to this agreement, or to the Court, may be used against the defendant in all
 7 such prosecutions.

8 **VII. REINSTITUTION OF PROSECUTION**

9 If the defendant's guilty plea is rejected, withdrawn, vacated, or reversed by any
 10 court in a later proceeding, the government will be free to prosecute the defendant for all
 11 charges and/or allegations of supervised release / probation violations as to which it has
 12 knowledge, and any charges and/or allegations of supervised release / probation violations
 13 that have been dismissed or not alleged under the terms of this plea agreement. In such
 14 event, the defendant waives any objections, motions, or defenses based upon the Speedy
 15 Trial Act or the Sixth Amendment to the Constitution as to the delay occasioned by the
 16 later proceedings. Defendant agrees that the fast-track departures set forth under
 17 "Agreements Regarding Sentence" will not be offered if prosecution is re-instituted.

18 **VIII. DISCLOSURE OF INFORMATION**

19 A. The United States retains the unrestricted right to provide information and
 20 make any and all statements it deems appropriate to the Probation Office and to the Court
 21 in connection with the case.

22 B. The defendant shall cooperate fully with the U.S. Probation Office. Such
 23 cooperation shall include providing complete and truthful responses to questions posed by
 24 the Probation Office including, but not limited to, questions relating to:

25 1. Criminal convictions, history of drug abuse and mental illness; and
 26 2. Financial information, including present financial assets or liabilities
 27 that relate to the ability of the defendant to pay a fine.

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1 **IX. EFFECT ON OTHER PROCEEDINGS**

2 This agreement does not preclude the United States from instituting any civil or
3 administrative proceedings as may be appropriate now or in the future.

4 **DEFENDANT'S APPROVAL AND ACCEPTANCE**

5 I have read the entire plea agreement with the assistance of counsel and understand
6 each of its provisions.

7 I have discussed the case and my constitutional and other rights with my attorney.
8 I understand that by entering my plea of guilty I shall waive my rights: to plead not guilty;
9 to trial by jury; to confront, cross-examine, and compel the attendance of witnesses; to
10 present evidence in my defense; to remain silent and refuse to be a witness against myself
11 by asserting my privilege against self-incrimination; and to be presumed innocent until
12 proven guilty; and to appeal or otherwise challenge my conviction and sentence.

13 I agree to enter my guilty plea as indicated above on the terms and conditions set
14 forth in this agreement.

15 I have been advised by my attorney of the nature of the charges to which I am
16 entering my guilty plea. I have further been advised by my attorney of the nature and range
17 of the possible sentence and that my ultimate sentence shall be determined after
18 consideration of the advisory Sentencing Guidelines. I understand that the Sentencing
19 Guidelines are only advisory and that without this agreement the Court would be free to
20 exercise its discretion to impose any reasonable sentence up to the maximum set by statute
21 for the crimes of conviction.

22 My guilty plea is not the result of force, threats, assurances, or promises other than
23 the promises contained in this agreement. I agree to the provisions of this agreement as a
24 voluntary act on my part and I agree to be bound according to its provisions.

25 I fully understand that, if I am granted probation or placed on supervised release by
26 the Court, the terms and conditions of such probation/supervised release are subject to
27 modification at any time. I further understand that, if I violate any of the conditions of my
28 probation/supervised release, my probation/supervised release may be revoked and upon

1 such revocation, notwithstanding any other provision of this agreement, I may be required
2 to serve a term of imprisonment or my sentence may otherwise be altered.

3 I agree that this written plea agreement and addendum contain all the terms and
4 conditions of my plea. I further agree that promises, including any predictions as to the
5 Sentencing Guideline range or to any Sentencing Guideline factors that will apply, made
6 by anyone (including my attorney) that are not contained within this written plea agreement
7 are null and void and have no force and effect.

8 I am satisfied that my defense attorney has represented me in a competent manner.

9 I am fully capable of understanding the terms and conditions of this plea agreement.
10 I am not now using or under the influence of any drug, medication, liquor, or other
11 intoxicant or depressant that would impair my ability to fully understand the terms and
12 conditions of this plea agreement.

13 **ELEMENTS**

14 **Reentry of Removed Alien**

15 On or about August 10, 2018, in the District of Arizona:

- 16 1. The defendant was an alien;
- 17 2. The defendant had been previously denied admission, excluded, deported, or
18 removed from the United States;
- 19 3. The defendant knowingly and voluntarily reentered or was present after a
20 voluntary entry and found in the United States in the District of Arizona; and
- 21 4. The defendant did not obtain the express consent of the Attorney General or
22 the Secretary of Homeland Security to reapply for admission to the United States prior to
23 returning to the United States.

24 **FACTUAL BASIS**

25 I further admit the following facts are true and if this matter were to proceed to trial
26 the United States could prove the following facts beyond a reasonable doubt:

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1 I am not a citizen or national of the United States. I was removed from the
2 United States through Del Rio, Texas, on May 15, 2018. I was voluntarily
3 present and found in the United States at or near Lukeville, Arizona, on
4 August 10, 2018. I was not under constant, continuous observation from the
5 time I crossed the border until the time I was found on August 10, 2018. I
6 did not obtain the express consent of the United States government to reapply
7 for admission to the United States prior to returning to the United States.
8

9 I have read this agreement or it has been read to me in Spanish, and I have carefully
10 reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it.
11

12 10/04/2018

13 Date

14 Alvaro Corona-Acosta

15 Alvaro Corona-Acosta

16 Defendant

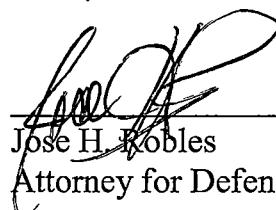
17 **DEFENSE ATTORNEY'S APPROVAL**

18 I have discussed this case and the plea agreement with my client in detail and have
19 advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the
20 constitutional and other rights of an accused, the factual basis for and the nature of the
21 offense to which the guilty plea will be entered, possible defenses, the consequences of the
22 guilty plea (including the maximum statutory sentence possible), and that the defendant is
23 waiving the right to appeal or otherwise challenge the conviction and sentence. I have
24 discussed the concept of the advisory Sentencing Guidelines with the defendant. No
25 assurances, promises, or representations that are not contained in this written agreement
26 have been given to me or to the defendant by the United States or any of its representatives.
27 I have concluded that the entry of the plea as indicated above on the terms and conditions
28 set forth in this agreement are in the best interests of my client. I agree to make a bona fide
effort to ensure that the guilty plea is entered in accordance with all the requirements of
Fed. R. Crim. P. 11.

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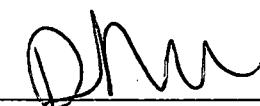
1 I translated or caused to be translated this agreement from English into Spanish to
2 the defendant on the 13th day of September, 2015.

3
4 10/4/15
5 Date

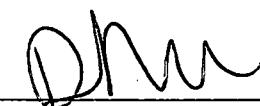
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7 
8 Jose H. Robles
9 Attorney for Defendant

10 **UNITED STATES' APPROVAL**

11 I have reviewed this matter and the plea agreement. I agree on behalf of the United
12 States that the terms and conditions set forth are appropriate and are in the best interests of
13 justice.

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16 Date
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20 ELIZABETH A. STRANGE
21 First Assistant United States Attorney
22 District of Arizona

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25 Date
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23 REBECCA J. SABLE
24 Assistant United States Attorney